

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

ANDREW MORET,

Case No. 2:23-cv-00715-HZ

Plaintiff,

OPINION AND ORDER

v.

JUDY BRADFORD, ASHLEY CLEMENTS,
TYLER [?], C. BROWN, JAMIE MILLER,
HEIDI STEWARD,

Defendants.

HERNANDEZ, District Judge:

Plaintiff Andrew Moret (“Plaintiff”), appearing *pro se*, brings this action challenging Defendants’ failure to provide to him certain requested medical records and other information under the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552-559. Compl. (ECF No. 2). Plaintiff is an adult in custody at the Snake River Correctional Institution. Defendants moved to dismiss the Complaint for failure to state a claim. Defs.’ Mot. Dismiss (ECF No. 15). Plaintiff initially responded and moved to file an amended complaint, but now moves to voluntarily dismiss this action without prejudice. *See* Mot. to Amend (ECF No. 18); Pl.’s Mot. Dismiss (ECF No. 26);

Mot. Relief (ECF No. 27). For the reasons that follow, Plaintiff's Motion to Voluntarily Dismiss Without Prejudice is GRANTED. All other pending Motions are DENIED AS MOOT.

DISCUSSION

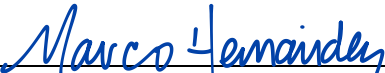
Plaintiff filed this action under FOIA alleging that Defendants refused his requests for free copies of ultrasound and x-ray images from his own medical records, a hospital bill relating to another individual and access to a phonebook. Compl. at 5. Plaintiff named six Oregon Department of Corrections employees as Defendants. Compl. at 2-3; *see* Defs.' Mot. Dismiss at 2. Defendants moved to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim arguing Plaintiff's claims failed as a matter of law because FOIA applies exclusively to federal agencies and provides no private right of action against individuals or state agencies. *See generally*, Defs.' Mot. Dismiss.

Plaintiff now moves to voluntarily dismiss the case without prejudice. *See* Pl.'s Mot. Dismiss; Mot. Relief. Under Rule 41(a)(1), a plaintiff may voluntarily dismiss an action as of right by filing a notice of dismissal before the defendant files an answer or summary judgment motion and the plaintiff has not previously dismissed an action "based on or including the same claim." Fed. R. Civ. P. 41(a)(1); *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). While Defendants have filed a Motion to Dismiss, they have not filed an answer or motion for summary judgment. Defendants have also stated for the record that, while their position has no bearing on the issue, they do not object to Plaintiff's Motion to Voluntarily Dismiss. *See* Resp. to Mot. Relief (ECF No. 29). Therefore, Plaintiff's Motion to Voluntarily Dismiss Without Prejudice is GRANTED.

CONCLUSION

For the reasons explained above, Plaintiff's Motion to Voluntarily Dismiss Without Prejudice (ECF No. 26) is GRANTED. All other pending Motions are DENIED AS MOOT. Plaintiff's Complaint (ECF No. 2) is dismissed without prejudice.

February 15, 2024
DATE



Marco A. Hernandez
United States District Judge